

Message Text

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FM AMEMBASSY PRETORIA
TO SECSTATE WASHDC 1983

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PER FOR DEP. ASST. SEC. GERSHENSON

E.O. 11652: N/A
TAGS: PDIP, AFSP, APER
SUBJECT: RECONCILIATION OF PRIVILEGES GRANTED TO
NON-DIPLOMATIC PERSONNEL OF SOUTH AFRICA
AND UNITED STATES EMBASSIES BY RECEIVING STATES

REF: 77 PRETORIA 35959, STATE 196497

1. IN JANUARY 1977 THE PRETORIA CHAPTER OF AFSA EXPRESSED ITS CONCERN TO THE EMBASSY ABOUT THE "FAILURE OF THE SOUTH AFRICAN GOVERNMENT TO ACCORD AMERICAN PERSONNEL OF THE EMBASSY AND CONSULATE(S) WHO ARE NOT ON THE DKPLOMATIC LIST AND WHO DO NOT HAVE CONSULAR COMMISSIONS RECIPROCAL PRIVILEGES TO THOSE ACCORDED EMBASSIES IN THE UNITED STATES." IN ITS MEMORANDUM TO THE EMBASSY, PRETORIA'S AFSA CHAPTER LISTED THE FOLLOWING EXAMPLES OF THE PRACTICE IN SOUTH AFRICA:

- A. CAR REGISTRATION FEES MUST BE PAID BY OUR NON-DIPLOMATIC PERSONNEL;
- B. A TIME LIMIT ON DUTY-FREE IMPORTS BY NON-DIPLOMATIC STAFF IS SET AT SIX MONTHS;
- C. NON-DIPLOMATIC PERSONNEL ARE REQUIRED TO PAY GASOLINE TAXES.

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2. SINCE JANUARY 1977 THE EMBSSY HAS TAKEN THE FOLLOWING ACTION:

- A. IT REQUESTED THE DEPARTMENT TO LIST THE PRIVILEGES AND IMMUNITES ACCORDED TO NON-DIPLOMATIC PERSONNEL OF THE SOUTH AFRICAN EMBASSY AND TO CONSULAR PERSONNEL IN

THE SOUTH AFRICAN EMBASSY AND TO CONSULAR PERSONNEL IN THE SOUTH AFRICAN CONSULATES LOCATED IN THE UNITED STATES.

B. BASED ON THE DEPARTMENT'S REPLY (STATE 043719, FEB. 28, 1977), THE EMBASSY SENT A NOTE (MARCH 3, 1977) TO THE DEPARTMENT OF FOREIGN AFFAIRS REQUESTING THE SOUTH AFRICAN GOVERNMENT TO EXEMPT THE EMBASSY'S NON-DIPLOMATIC AMERICAN STAFF MEMBERS FROM "THE PAYMENT OF REGISTRATION FEES ON THEIR PRIVATE VEHICLES." THE EMBASSY RECEIVED A REPLY FROM THE DEPARTMENT OF FOREIGN AFFAIRS DATED MARCH 28, 1977, WHICH ACKNOWLEDGED RECEIPT OF OUR NOTE AND STATED: "A FURTHER COMMUNICATION IN THIS REGARD WILL BE ADDRESSED TO THE EMBASSY IN DUE COURSE."

C. IN RESPONSE TO STATE 177448 (JULY 28, 1977) ON THE 1975 SECRETARIAL TASK FORCE'S RECOMMENDATION THAT "STAFF PERSONNEL RECEIVE SAME PRIVILEGES AS THOSE ON DIPLOMATIC LIST," THE EMBASSY SUBMITTED ITS 3959 OF AUGUST 5, 1977, LISTING SPECIFIC AREAS WHERE PRETORIA'S STAFF PERSONNEL DO NOT ENJOY THE SAME PRIVILEGES AS DO INDIVIDUALS ON THE DIPLOMATIC LIST.

D. ON JANUARY 11, 1978, IN THE ABSENCE OF THE PROMISED FOLLOW-UP TO THE DEPARTMENT OF FOREIGN AFFAIRS' NOTE OF MARCH 28, 1977 (B ABOVE), THE EMBASSY SENT ANOTHER NOTE TO THE DEPARTMENT OF FOREIGN AFFAIRS REQUESTING CONFIRMATION OF THE PRIVILEGES AND IMMUNITIES DENIED NON-DIPLOMATIC PERSONNEL IN SOUTH AFRICA, CALLING ATTENTION TO THE PRIVILEGES AND IMMUNITIES ENJOYED BY THE SOUTH LIMITED OFFICIAL USE

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AFRICAN NON-DIPLOMATIC STAFF IN THE UNITED STATES, AND URGING THE APPLICATION OF RECIPROCITY IN THIS REGARD IN SOUTH AFRICA. OUR NOTE SUGGESTED THAT, SHOULD THE SAG NOT FIND IT POSSIBLE TO GRANT PRIVILEGES AND IMMUNITIES ON A RECIPROCAL BASIS, THE EMBASSY WOULD FEEL COMPELLED TO RECOMMEND THE DENIAL OF PRIVILEGES AND IMMUNITIES PRESENTLY GRANTED SOUTH AFRICAN NON-DIPLOMATIC PERSONNEL IN THE UNITED STATES. THE DEPARTMENT OF FOREIGN AFFAIRS RESPONDED ON 26 JANUARY 1978 BY STATING THAT A "FURTHER COMMUNICATION IN THIS REGARD WILL BE ADDRESSED TO THE EMBASSY IN DUE COURSE."

E. ON MAY 22, 1978, THE EMBASSY AGAIN ADDRESSED THE DEPARTMENT OF FOREIGN AFFAIRS REFERRING TO ITS NOTE OF 26 JANUARY 1978, AND ASKED WHETHER THE SOUTH AFRICAN GOVERNMENT HAD "COMPLETED ITS CONSIDERATION AND/OR TAKEN ACTION IN THIS REGARD." THE DEPARTMENT OF FOREIGN AFFAIRS IN ITS RESPONSE DATED 13 JUNE 1978, SAID, "THE MATTER IS STILL UNDER CONSIDERATION. A FURTHER COMMUNICATION IN THIS REGARD WILL BE ADDRESSED TO THE EMBASSY AS SOON AS CIRCUMSTANCES PERMIT." (IT SHOULD BE NOTED HERE THAT THE EMBASSY WAS LED TO BELIEVE THAT THE SAG WAS GOING TO PASS AN AMENDMENT OF ITS BASIC LAW IN THIS ARE, I.E.,

THE DIPLOMATIC PRIVILEGES ACT NO. 71 OF 1951, WHICH WOULD EXPAND PRIVILEGES CONSIDERABLY. WHEN THE LONG-AWAITED BILL WAS PASSED IT AFFECTED ONLY REPRESENTATIVES OF RECOGNIZED INTERNATIONAL ORGANIZATIONS AND CONSULAR OFFICERS. NON-DIPLOMATIC EMBASSY PERSONNEL WERE NOT MENTIONED.)

3. RECOGNIZING THE POSSIBLE DIFFICULTIES INVOLVED, WE NEVERTHELESS RECOMMEND THAT THE DEPARTMENT NOW CONSIDER THE FEASIBILITY OF ESTABLISHING RECIPROCITY IN THIS AREA BY WITHDRAWAL OF PRIVILEGES PRESENTLY ENJOYED BY SOUTH AFRICAN NON-DIPLOMATIC PERSONNEL IN THE UNITED STATES. WE HAVE IN MIND PARTICULARLY REMOVAL OF THE EXEMPTION FROM SALES AND FEDERAL GASOLINE TAXES AND FROM UTOMOBILE REGISTRA-LIMITED OFFICIAL USE

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TION AND OPERATORS'S LICENSE FEES.

4. WHETHER OR NOT SUCH SELECTIVE DENIAL OF PRIVILEGES TO SOUTH AFRICAN NON-DIPLOMATIC PERSONNEL IS FEASIBLE, WE URGE THE DEPARTMENT TO TAKE UP THE PROBLEM WITH THE SOUTH AFRICAN EMBASSY IN WASHINGTON. PERHAPS AN APPROACH IN WASHINGTON COMPLEMENTING OURS IN PRETORIA WILL STIMULATE THE DFA TO ACT.
EDMONDSON

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